



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

FEB - 5 2003

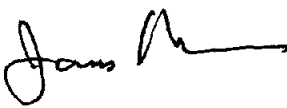
Mr. John Traeger
President
Cenex Pipeline, LLC
803 Highway 212 South
P.O. Box 909
Laurel, MT 59044

RE: CPF No. 5-2001-5002

Dear Mr. Knepper:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It withdraws one of the allegations of violation, makes findings of violation and assesses a civil penalty of \$13,400. The penalty payment and terms are set forth in the Final Order. At such time that the civil penalty is paid and the terms of the compliance order are completed, as determined by the Director, Western Region, this enforcement action will be closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

for 
Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

cc: Chris Hoidal, Director, OPS Western Region

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
WASHINGTON, DC 20590**

<u>In the Matter of</u>)	
Cenex Harvest States Cooperatives,)	CPF No. 5-2001-5002
<u>Respondent</u>)	

FINAL ORDER

During July 10-14, 2000, July 17-24, 2000, and September 11-15, 2000 pursuant to 49 U.S.C. § 60117, representatives of the Western Region and Central Region, Office of Pipeline Safety (OPS) conducted an onsite pipeline safety inspection of Respondent's products pipeline facilities and records in Laurel, Montana. As a result of this investigation, the Director, Western Region, OPS, issued to Respondent, by letter dated March 1, 2001, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order, and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. Part 195, proposed assessing a total civil penalty of \$22,700 for the alleged violations, and proposed that Respondent take certain measures to correct the alleged violations. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Respondent amend its procedures for Operations, Maintenance and Emergencies.

In a letter dated March 30, 2001, Respondent submitted a Response to the Notice (Response). Respondent contested several of the allegations of violation, provided information concerning the corrective actions it has taken and contested the proposed civil penalty. Respondent did not request a hearing and therefore has waived the right to one.

FINDINGS OF VIOLATION

Uncontested Violations

Respondent did not contest alleged violations of §§195.428, 195.404, 195.402, and 195.416 in the Notice. Accordingly, I find that Respondent violated 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. §195.428(a) – failure to identify, test and inspect all overpressure control safety devices or provide inspection records.

49 C.F.R. §195.404(c) – failure to document and maintain records of mainline valve inspections during 1999 on the Laurel to Glendive segment for valves 18A, 18B, 29, 47A and 47B and on the Glendive to Minot segment for valves 31, 46 and 51, in accordance with §195.420(b).

49 C.F.R. §195.402(a) – failure to follow established operating procedures which provide for cathodic protection criteria and testing methods required by §195.416(a) and failure to correct an adverse safety condition, as pipe-to-soil potential readings for cathodic protection test stations showed a lack of adequate cathodic protection at the Glendive pump station, Breakout Tank 281 during 1997, 1998 and at test stations at mileposts 8, 31, 126, 129, 131, 135.5, 137, 138, 146, 148, 150, 153, 197, 200, 202, 206, 233, 234BV during 1997-1999.

49 C.F.R. §195.416(i) – failure to maintain suitable pipe coating to prevent corrosion of the block valve at milepost 133 which had deteriorating paint, the Arnegard pump station has metal to metal contact with heavy rusting and the onset of corrosion, the same condition is present on piping at the Minot pump station and the Glendive and Rosebud pump stations have several areas where the pipe is not coated at the air-to-soil interface.

Contested Violations

Item 2c of the Notice alleges violation of 49 C.F.R. §195.416 (a), by failing to have inspection records for year 2000 for 18 test stations on the Laurel to Glendive segment from milepost (MP) 206 to 235, 100 mV shift data for four test stations on the Glendive to Minot segment and no inspection records for 12 test stations from MP 177 to 188. In addition, Respondent did not have inspection records for 63 test stations from MP 97 to 188 for year 1999. In sum, there were 97 missing inspections records.

In response, Respondent explains that the readings were taken and the data recorded at the 18 test stations on the Laurel to Glendive segment, the 12 test stations from MP 177 to MP 188 and the 63 test stations from MP 97 to MP 188 but the computer generated report reflected the incorrect date. In furtherance, Respondent submitted copies of inspection records with corrected dates. Nevertheless, Respondent admits it lacks the 100 mV shift data for four test stations at MPs 5, 18, 19 and 22, on the Glendive to Minot segment for year 2000. Respondent argues that the total number of missed inspections is 4 (four) and not ninety-seven (97) as initially assessed.

Corrosion, both external and internal, is one of the conditions most threatening to the integrity of pipelines, which if left undetected can result in the rupture of the pipeline. Monitoring critical locations of a pipeline or a structure where the risk of corrosion is greatest allows personnel to take immediate action against the potential for a pipeline failure. Inspection and testing at the required intervals are essential to knowing that the pipeline equipment is being maintained, will function properly and that the integrity of the pipeline system is not compromised. The magnitude of the risk

of failure increases when there is a lack of monitoring both a pipeline's condition for early warning of failure and the efficiency of any mitigation program to reduce or arrest corrosion. At the time of the inspection, Respondent failed to provide all inspection records for the above-referenced years associated with §195.416(a). Accordingly, I find Respondent violated 49 C.F.R. §195.416(a).

Item 3 of the Notice alleges violation of 49 C.F.R. §195.402(a), by failing to maintain current maps which identify the location of cathodic protection facilities. Respondent admits that its "strip" maps, which were inspected by OPS, do not identify the location of its cathodic protection facilities. Respondent explained that it has electronic maps that identify the location of its cathodic protection facilities and can provide them to OPS in electronic or paper form. Respondent further explained that it is revising its "strip" maps to reflect the location of its cathodic protection facilities.

All gas and hazardous liquid pipeline operators must maintain an operating and maintenance plan that includes procedures for making construction records, maps, and operating history available to appropriate operating personnel to enable them to safely and effectively perform their duties. 49 C.F.R. § 195.404 explicitly require that the maps and records must include the location of cathodic protection facilities. Accurate company maps and records, which are readily available, allow for timely and decisive emergency response. The need for accurate maps of pipeline systems has been highlighted by pipeline accidents in which the lack of accurate maps contributed to an accident or inhibited effective emergency response. At the time of the inspection, Respondent's maps did not identify the location of its cathodic protection facilities. Accordingly, I find Respondent violated 49 C.F.R. §195.402(a).

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

WITHDRAWAL OF ALLEGATION

Item 4 of the Notice alleges violation of 49 C.F.R. §195.406 (a), by failing to ensure that the operating pressure does not exceed the maximum allowable operating pressure (MAOP). Respondent's March 28, 2000 pressure discharge records for the Glendive pump station show a pressure of approximately 1205 psig with the maximum operating pressure (MOP) at the downstream pump station of 1200 psig. Although this pressure difference is less than 1 percent and may be within the level of accuracy for the chart recorder, it shows that Respondent is operating above its MOP.

Respondent submitted copied of its products pipeline printout reports and explained that the width of the chart recorder pen covers 10 psig, that the accuracy of the recorder was determined to be + or - 0.2 % of full scale which would be + or - 3 psig. To determine the precise pressure on March 28, 2000, Respondent analyzed the hourly printout reports from 5:00 a.m. to 11:00 p.m. At the time of the inspection, the recorder appeared to show 1205 psig. However, the reports show that the Glendive station discharge pressure was 1193 psig at the top of each hour from 5:00 a.m. to 9:00 a.m. on March 28, 2000. At 10:00 a.m. the reports show a pressure of 1117 psig and at 11:00 a.m.

it shows 993 psig, reflecting a drop in pressure. Therefore, Respondent argues that the actual hourly readings from the reports should be used instead of the chart readings to determine the actual operating pressures. The hourly reading indicates a discharge pressure of 1193 psig at the Glendive pump station on March 28, 2000, which does not exceed the MOP of 1200 psig.

Based upon the documentation submitted by Respondent, the Glendive pump station discharge pressure was 1193 psig on March 28, 2000 and did not exceed the MOP of 1200 psig. Accordingly, this allegation is withdrawn.

COMPLIANCE ORDER

Under 49 U.S.C. § 60118(a), each person who engages in the transportation of [gas] hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is hereby ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations.

1. As for Item 5c, provide cathodic protection at the Glendive pump station, as required by 49 C.F.R. §195.414(c), including:
 - (a) Cathodically protect the buried piping between the breakout tanks and the pump manifold
 - (b) Conduct tests on all breakout tank areas and buried pump station piping to determine whether the cathodic protection is adequate
2. As for Item 6, prevent atmospheric corrosion as required by 49 C.F.R. §195.416(i), including:
 - (a) Assess the adequacy of the pipe coating for preventing of atmospheric corrosion on all above ground portions of the pipeline including the area between the pipe and pipe supports and pipe at the pipe-to-soil interface :
 - (b) Clean and coat all aboveground portions of the pipeline with a material suitable for the prevention of atmospheric corrosion, particularly the areas identified in Item 6 of the Notice.
3. Complete all actions required herein within 30 days of issuance of this Final Order.
4. The Director, Western Region may grant an extension of time for compliance with any of the terms of this order for good cause. A request for an extension must be in writing.
5. Submit documentation of the procedures and evidence of actions taken to Director, Western Region, Office of Pipeline Safety, 12600 W. Colfax Avenue, Suite A-250 Lakewood, CO 80215-736.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations. The Notice proposed a total penalty assessment of \$22,700.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

The proposed penalty for **Item 2a** is \$8,000 for violation of 49 C.F.R. §195.420. Respondent did not contest this allegation of violation. Respondent admits that it does not have the referenced valve inspection records. The primary objective of the Federal pipeline safety standards is public safety and failure to properly conduct inspections and testing of equipment to correct any deficiencies could adversely affect public safety. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$8,000.

The proposed penalty for **Item 2c** is \$9,700 for violation of 49 C.F.R. §195.416. Respondent submitted survey records and explained that the documentation on the day of the inspection reflected an incorrect date due to a computer error. Nevertheless, Respondent admits it lacks the 100 mV shift data for four test stations. Based upon the survey records submitted by Respondent, a determination has been made that Respondent missed four (4) CP inspections. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$400.

The proposed penalty for **Item 5** is \$5,000 for violation of 49 C.F.R. §195.402. Respondent did not contest the alleged violation but advised that it has revised its operating procedures to obtain compliance. The performance-based standards in the pipeline safety regulations rely heavily on an operator's engineering decisions to meet the safety levels prescribed for the operation of the pipeline. Consistent low cathodic protection readings indicate that a pipeline is not receiving adequate protection. Inadequate pipe-to-soil potentials increase the risk of corrosion and can result in a pipeline failure. Ultimately, the Respondent is responsible for the safe operation of its pipeline. Respondent has not shown any circumstance that would have prevented or justified it not providing adequate cathodic protection and not electrically inspecting the breakout tank area and buried piping at the Glendive pumping station to ensure compliance with §195.402, 195.416 and 195.414. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$13,400. A determination has been made that Respondent has the ability to pay this penalty without adversely affecting its ability to continue business.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this **payment be made by wire transfer**, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. **Detailed instructions are contained in the enclosure.** After completing the wire transfer, send a copy of the **electronic funds transfer receipt** to the **Office of the Chief Counsel (DCC-1)**, Research and Special Programs Administration, Room 8407, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590-0001.

Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25770, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the \$13,400 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a United States District Court.

AMENDMENT OF PROCEDURES

Items 1 - 1e of the Notice alleged inadequacies in Respondent's Operations, Maintenance and Emergencies Manual and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. §§195.402 (c)(3), 195.406(a), 195.401(b), 195.432 (b)&(d), 195.416(j) and 195.428(a). In its Response, Respondent submitted copies of its amended procedures, which the Director, Western Region, OPS has accepted as adequate to assure safe operation of Respondent's pipeline system. Accordingly, no need exists to issue an order directing amendment.

WARNING ITEMS

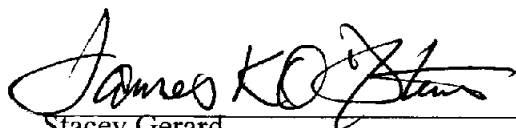
The Notice did not propose any penalty with respect to these items; therefore, Respondent is warned that if it should not take appropriate corrective action and a violation comes to the attention of OPS in a subsequent inspection, enforcement action will be taken.

Item 2b in the Notice alleged that Respondent failed to maintain a current list of property owners and/or tenants along the pipeline right-of-way to ensure continuing public education regarding the pipeline system, as required by 49 C.F.R. §195.440.

Item 7 in the Notice alleged that Respondent failed to correct an adverse safety condition within a reasonable time, as Respondent had moderate to medium weed growth around block valves on the Glendive to Fargo segment of the pipeline and at milepost 140 the valve was obscured by dense overgrowth, as required by 49 C.F.R. §195.401(b).

Under 49 C.F.R. § 190.215, Respondent has a right to petition for reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.

Failure to comply with any aspect of this Final Order, including the Amendment, may result in the assessment of civil penalties of up to \$25,000 per violation per day, or in the referral of the case for judicial enforcement.



Stacey Gerard
Associate Administrator
for Pipeline Safety

FEB - 5 2003

Date Issued